

Legal Briefing

**Hart King Trust
Litigation Victories
Continue!**

Hart King partner, Andrew Kienle, recently prevailed in two separate Probate litigation matters in Orange County Superior Court. In both cases, we represented the respondent, trustee, in lawsuits brought to challenge the trustee's actions in administering trust assets. In the first case, Andrew brought a rarely used Probate motion for judgment in favor of the trustee at the conclusion of the petitioner's case in chief. After considering the evidence presented by the petitioner, the Court granted the motion and entered judgment in favor of Hart King's client on all claims. In the other case, after hearing all evidence presented by both sides, the Court found that there was no basis for any of the petitioner's claims and denied the petition filed against Hart King's client. Both client/trustees were extremely pleased with Andrew's expertise and the outcome of their respective cases before the Probate Court.

WELCOME ABOARD!

New attorney, **Sean O'Hair** just came on board as an associate with Hart King. Sean graduated from UCI with a B.A. in Philosophy and received his law degree from Chapman University. He is a member of the firm's real estate litigation and manufactured housing groups.

New paralegal, **Brittany Cluck** joined Hart King as a litigation paralegal in early 2015. Brittany graduated from USC with a B.A. in Communications and received her paralegal certificate from UCI. She works closely with the firm's attorneys on open litigation and other matters in the areas of business and real estate.

Questions :

Contact James Moorhouse at (657) 622-4714 or jmoorhouse@hartkinglaw.com.

Cartoons can infringe copyrights?

by David Christopher Baker

Fans of the FX animated television series Archer would likely tell you they enjoy the show for its irreverent humor or the voice acting of Hollywood actors such as Jessica Walter and Jon Benjamin or the stylized way the animation is presented, but it's doubtful they would tell you they watch because of the real world art work displayed in the make-believe world of the series. Nevertheless, Indiana artist Michel Leah Keck has filed suit against FX Networks (as well as Twentieth Century Fox Home Entertainment) alleging the network has used at least three of her paintings as backgrounds on the show without a license or other permission.

Archer is an animated comedy about a fictional spy organization (the "International Secret Intelligence Service") that is run by matriarch Malory Archer (voiced by Ms. Walter) who is constantly at odds with her hard drinking, womanizing and generally bumbling son Sterling Archer (voiced by Benjamin). Despite himself, Sterling is usually able to complete his missions through the assistance of more able cohorts and the ineptitude of his villainous foes. Befitting her own snobby competence, Ms. Archer's office is stylishly appointed and features several distinctive paintings which Ms. Keck alleges are unauthorized copies of her original paintings *Sink or Swim*, *The Best is Yet to Come*, and *I Don't Want to Hear It*. All three paintings have been registered with the U.S. Copyright Office.

In the federal court complaint, Ms. Keck has alleged, "FX Networks and Fox Home Entertainment operate sophisticated media production and distribution businesses with trained staff and an excellent working knowledge of copyright law principles and rights-clearance practices. Inexplicably, defendants used the works as part of Archer without even seeking the necessary permissions to do so." And, should she win at trial, Ms. Keck is seeking monetary damages of \$30,000 per infringement or up to \$150,000 per infringement if the infringement is proven to have been intentional.

It may be hard for Sterling Archer to bumble his way out of this predicament.

Why It Matters

Regardless of the outcome of the case, it is very doubtful there will be any negative impact on FX or even the Archer show. However, the fact pattern points out the importance of policing valuable copyrights even in unusual places such as animated worlds and it serves as yet another warning of the perils of using someone else's copyrighted material without first obtaining permission. And, the case reiterates the requirement that in the United States a copyright owner cannot pursue a copyright infringement case until he or she has first registered the copyrighted material with the U.S. Copyright Office.

David Christopher Baker is a partner with Hart King and can be reached at dbaker@hartkinglaw.com or (714) 619-7078.

Upcoming Industry Events

MHI 2015 National Congress & Expo
Tuesday - Thursday, April 14-16, 2015
Paris Hotel, Las Vegas, Nevada

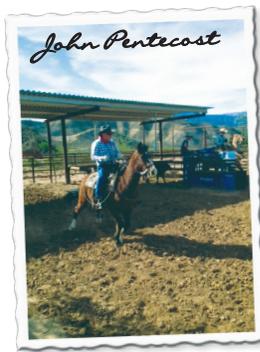
Please stop by the **Hart King booth # 409**. We would love to chat with you!

CMPA Symposium
Sunday - Monday, May 31 - June 1, 2015
Mandarin Hotel, Las Vegas, Nevada

Partners Bill Dahlin and John Pentecost are speaking at this event. Stay tuned for more details.

WMA 2015 Convention & Expo
Monday - Thursday, October 12 - 15, 2015
Peppermill Resort Spa and Casino, Reno, Nevada

Partners Bill Dahlin and John Pentecost are speaking at this event. Stay tuned for more details.



2015 Los Caballeros Annual St. Patrick's Day Ride

In early March, longtime partner and cowboy, John Pentecost, went Western for the day and participated in the annual Los Caballeros St. Patrick's Day weekend ride. The ride is organized by WMA president, Alex Boggs or as he is commonly known around these parts as El Presidente!

Celebrating Cowboy Camaraderie since 1943, Los Caballeros is dedicated to preserving cowboy culture. The Hart King partner saddled up his steed for a little riding and roping while enjoying the beautiful surroundings of Pioneertown.

A special thank-you goes out to WMA president Alex Boggs and all our fellow riders that day.

Are you aware of these new California Employment Laws that became effective earlier this year?

1. Mandatory paid sick leave.
2. Expanded coverage for emergency duty leave.
3. Expansion of definition of individuals protected from harassment and discrimination.
4. New harassment prevention training requirements.
5. Extended liability for companies using contract labor/staffing companies.
6. Clarification regarding heat breaks.
7. Waiting time penalties recoverable by California labor commissioner.
8. New statute of limitations for liquidated damages for failure to pay minimum wage.
9. Workplace safety reports can be e-mailed.
10. Conformance of California's waiting periods for health care coverage.
11. Physician assistants certifying an employee's disability for unemployment insurance.
12. Workplace violence prevention plan for hospitals.

If you have any questions or need help with any of the new laws listed above, you may contact (714) 432-8700.

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